

IC 8-21-9

Chapter 9. Jurisdiction Over Certain Airport Facilities

IC 8-21-9-1 Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-1.5

Purpose of chapter

Sec. 1.5. The purpose of this chapter is to:

- (1) promote the public welfare and national security;
- (2) serve the public interest, convenience, and necessity;
- (3) promote air navigation and transportation (international, national, state, and local) in and through Indiana;
- (4) increase air commerce;
- (5) promote the efficient, safe, and economical handling of air commerce; and
- (6) assure the inclusion of Indiana in national and international programs of air transportation.

As added by P.L.1-1989, SEC.19.

IC 8-21-9-1.6

Liberal construction of chapter

Sec. 1.6. This chapter is necessary for the welfare of Indiana and its inhabitants and shall be liberally construed to effect its purposes.

As added by P.L.1-1989, SEC.20.

IC 8-21-9-2

Definitions

Sec. 2. (a) As used in this chapter, the term:

- (1) "Airport" means any location on land, water or upon any building or other structure which is used for the landing and taking off of aircraft, which provides for the shelter, supply or care of aircraft, or a place used for receiving or discharging passengers or cargo by air.
- (2) "Airport facility" includes the following: lands, access roads, parking facilities, railroad siding facilities, snow removal or impacting equipment, fire and ambulance equipment, motor vehicles, apparatus or equipment for disseminating weather information, for signaling, for radio directional finding or for radio or other electrical communication, any structure or mechanism for guiding or controlling flight in the air or the landing and take-off of aircraft or otherwise in aid of air navigation, piers, docks, wharves, warehouses, sheds, transit sheds, elevators, compressors, refrigeration, storage plants, hangars, shops, buildings, structures and other facilities, appurtenances and equipment necessary or useful in connection with the operation of a modern airport and every kind of terminal or storage structure or facility designed for use in the handling, storage, loading or unloading of freight or passengers at airports, and every kind of transportation facility designed for

use in connection with an airport. The term "airport facility" includes the term "airport".

(3) "Commissioner" refers to the commissioner of the department.

(4) "Cost", as applied to an airport facility, includes the cost of construction; the cost of acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the authority for the construction; the cost of demolishing or removing buildings or structures on land so acquired, including the cost of acquiring lands to which buildings or structures may be moved; the cost of relocating public roads, railroads, public utility facilities, including the cost of land or easements, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction; cost of engineering, architectural and legal expenses, plans, specifications, surveys, estimates of traffic and revenues; other expenses necessary or incident to determining the feasibility or practicability of constructing any airport facility; administrative expenses; and other expenses as are necessary or incident to the construction of an airport facility, the financing of the construction, and the placing of the airport facility in operation. The term includes the payment or reimbursement of obligations incurred or loans or advances made by or to the department for any of the foregoing. The cost of an airport facility may include, instead of the cost of the acquisition of the land constituting the site of such facility, the value of the land as determined by the department. The proceeds of revenue bonds representing the value of the land shall be deposited in the "Airport Fund".

(5) "Current expenses" means the department's reasonable and necessary costs of maintaining, repairing and operating the projects and includes all administrative expenses, insurance premiums, engineering expenses relating to operation and maintenance, legal expenses, charges of the paying agents, taxes lawfully imposed on the department or its income or operations or the property under its control and reserves for taxes and payments in lieu of taxes, ordinary and usual expenses of maintenance and repair, including expenses not annually recurring, expenses incurred in the performance of the powers under this chapter and other expenses required to be paid by the department under a trust agreement securing revenue bonds or by law. The term does not include any allowance for depreciation or transfers to the credit of the sinking fund for the revenue bonds.

(6) "Department" refers to the Indiana department of transportation.

(7) "Existing airport facilities" means the properties which are acquired by the department from public or private entities under this chapter.

(8) "Project" means the existing airport facilities or any airport

facility acquired, constructed, controlled or operated by the department, together with all property, rights, easements and interest appertaining to the facility, acquired for the construction or operation of the facility.

(b) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings found in IC 8-21-1, except as otherwise provided in this chapter.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.342; P.L.18-1990, SEC.158.

IC 8-21-9-3

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-4

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-5

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-6

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-7

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-8

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-9

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-10

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-11

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-12

Jurisdiction; powers and duties

Sec. 12. (a) The department shall have jurisdiction only over two
(2) major new continental or intercontinental airport facilities

designed and constructed to serve a portion of Indiana or adjacent states.

(b) The department may designate the location and character of all airport facilities which the department may hold, own or over which it is authorized to act and to regulate all matters related to the location and character of the airport facilities.

(c) The department may designate the location and establish, limit and control points of ingress to and egress from any airport property.

(d) The department may lease to others for development or operation such portions of any airport or airport facility on such terms and conditions as the department considers necessary.

(e) The department may make directly, or through hiring of expert consultants, investigations and surveys of whatever nature, including, but not limited to, studies of business conditions, freight rates, airport services, physical surveys of the conditions of structures, and the necessity for additional airports or for additional airport facilities for the development and improvement of commerce and for the more expeditious handling of such commerce, and to make such studies, surveys and estimates as are necessary for the execution of its powers under this chapter.

(f) The department may make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials or supplies, involves an expenditure of more than five thousand dollars (\$5,000), the department shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in such other publications as the department shall determine. Such notice shall state the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The department may reject any and all bids. A bond with good and sufficient surety, as shall be approved by the department, shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(g) The department may fix and revise from time to time and charge and collect equitable rates, fees, rentals or other charges for the use of any airport facility or airport facilities under its control, which rates, fees, rentals or other charges shall be in amounts reasonably related to the cost of providing and maintaining the particular airport facility or airport facilities for which these rates, fees, rentals, and other charges are established.

(h) The department may, subject to IC 8-9.5-6-1, make application

for, receive, and accept from any federal agency, grants for or in aid of the planning, construction, operating or financing of any airport facility, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which made, in each case on such terms and conditions as the department considers necessary or desirable; also, to enter into and carry out contracts and agreements in connection with any of the foregoing.

(i) The department may appear in its own behalf before boards, commissions, departments or other agencies of the federal government or of any state or international conference and before committees of the Congress of the United States and the general assembly of Indiana in all matters relating to the designs, establishment, construction, extension, operations, improvements, repair or maintenance of any airport or airport facility operated and maintained by the department under this chapter, and to appear before any federal or state agencies in matters relating to air rates, airport services and charges, differentials, discriminations, labor relations, trade practices, and all other matters affecting the physical development of and the business interest of the department and those it serves.

(j) The department may contract for the services of consulting engineers, architects, attorneys, accountants, construction and financial experts, and such other individuals as are necessary in its judgment however, the employment of an attorney shall be subject to such approval of the attorney general as may be required by law.

(k) The department may do all things necessary and proper to promote and increase commerce within its territorial jurisdiction, including cooperation with civic, technical, professional and business organizations and associations and the Indiana department of commerce.

(l) The department may establish and maintain a traffic bureau for the purpose of advising the department as to the airport's competitive economic position with other airports.

(m) The department may contract for the use of any license, process or device, whether patented or not, which the department finds is necessary for the operation of any airport facility, and may permit the use thereof by any lessee on such terms and conditions as the department may determine. The cost of such license, process or device may be included as part of the cost of the airport facility.

(n) The department may, subject to IC 8-9.5-5-8(6), issue airport revenue bonds and airport revenue funding bonds.

(o) The department may do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

(Formerly: Acts 1971, P.L.105, SEC.2; Acts 1973, P.L.73, SEC.1; Acts 1975, P.L.34, SEC.8.) As amended by Acts 1980, P.L.74, SEC.343; Acts 1981, P.L.41, SEC.60.

IC 8-21-9-13

Regulations

Sec. 13. The department may, subject to IC 8-9.5-2-6(7), adopt such regulations as it may deem advisable for the control and regulation of any airport or airport facility or traffic on any airport or airport facility, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control; however, such regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the department without the payment of tolls.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.344.

IC 8-21-9-14

Promotion of airport facilities; cooperation with federal government; title to airport property

Sec. 14. The department shall prepare sketches, plans and descriptive material relating to any such airport, or airport facility, as in its discretion may seem feasible; to compile data and prepare literature as to the necessity or advisability thereof; and to do other acts and things which it considers necessary to promote any such airport or airport facility and deems to be in the public interest; to carry on in its discretion negotiations and enter into agreements and contracts with the federal government or agencies thereof for or relating to the building and construction of any airport or airport facility to be located within the State of Indiana; to locate and acquire a suitable site for any such airport or airport facility; and to construct, develop, maintain and operate the same in cooperation with the federal government, or any agency thereof, or otherwise, in such manner and on such terms as will, in the discretion of the department, best serve the commercial, industrial and agricultural interests of the state. The title to all property included in any such airport or airport facility shall be taken in the name of the state of Indiana.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.345.

IC 8-21-9-15

Acquisition and disposition of land

Sec. 15. (a) If the department considers a purchase expedient, the department may acquire by purchase any land, property, rights, rights-of-way, franchises, easements, and other interest in lands, including lands under water and riparian rights, as it considers necessary or convenient for the construction and operation of any airport or airport facility.

(b) The appropriation and condemnation of lands and easements in lands authorized by this chapter must be made under the terms and conditions of and in the manner prescribed in IC 32-24-1.

(c) The department shall take title in the name of the state of Indiana.

(d) The department may:

- (1) sell, transfer, and convey any land or any interest in land acquired, or any part of the land or interest in land if the land or interest in land is no longer needed for such purposes; and
- (2) transfer and convey any lands or interests in lands as may be necessary or convenient for the construction and operation of any airport or airport facility, or as otherwise required under this chapter. However, a sale may not be made without the approval of the governor first obtained and at not less than the appraised value established by three (3) independent appraisers appointed by the governor.

The department may restrict the use of any land sold by it and provide for a reversion to the department if the land is not used for the purpose represented by the purchaser. Provisions concerning restrictions and reversions must be set out in appropriate covenants in the deeds of conveyance. The deeds must be approved by the governor.

(e) The department may lease to others for development or use any part of the land owned by the department, together with any airport facility on the land or to be constructed on the land, on terms the department determines to be advantageous. Leases covering a period of more than four (4) years must be approved by the governor. Leases of lands under the jurisdiction or control of the department may be made only for uses and purposes as are calculated to contribute to the growth and development of the airport and airport facilities under the jurisdiction or control of the department.

(f) If the department leases to others for a period of more than four (4) years an airport facility financed by the issuance of revenue bonds, the rental must be in an amount at least sufficient to pay the interest on and principal of the amount of the bonds representing the cost of the airport facility to the extent the interest and principal is payable during the term of the lease. The lease must provide for the payment by the lessee of all costs of maintenance, repair, and insurance.

(g) The department may acquire or purchase an existing airport facility if:

- (1) the facility is located on land acquired for the purpose of constructing a continental or an intercontinental airport; or
- (2) operation of the airport would be detrimental to the safe use of the airport facility.

(h) The department may enter into contracts, leases and other use agreements with air carriers, airport concessionaires, airport tenants, and other airport users under agreed terms, conditions, charges, and fees for a term not exceeding twenty (20) years. However, lease agreements for land rental may be entered into for a term not exceeding ninety-nine (99) years if the lessee will use the leased land for the construction of buildings or other facilities at the lessee's expense.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.346; P.L.2-2002, SEC.44.

IC 8-21-9-16**Eminent domain**

Sec. 16. The department may acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any airport or airport facility. The department is empowered to exercise such powers of eminent domain as may be conferred upon the authority by an Act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the department to acquire by appropriation property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the authority excepting, however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.347.

IC 8-21-9-17**Political subdivisions authorized to transfer real property**

Sec. 17. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the department at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, and any real property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the department.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.348.

IC 8-21-9-18**Relocation or removal of road, railroads, or public utility facilities**

Sec. 18. If the department finds it necessary to change the location of any portion of any public road, railroad or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original

road, highway or railroad or public utility facility. The cost of such reconstruction, relocation or removal and any damage incurred in changing the location of any such road, highway, railroad or public utility facility, shall be ascertained and paid by the department as a part of the cost of such airport or airport facility. The department may petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any airport or airport facility, for the vacation or relocation of such road or any part thereof with the same force and effect as is now given by existing laws to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by existing laws for similar proceedings upon such petitions. In addition to the foregoing powers, the department and its authorized agents and employees, after proper notice, may enter upon any lands, waters and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this chapter; and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; however, before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry. No survey, sounding, drilling and examination shall be made between the rails or so close to a railroad track as would render said track unusable. The department may make reimbursement for any actual damage resulting to such lands, waters and premises and to private property located in, on, along, over or under such lands, waters and premises, as a result of such activities. The State of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by it, including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any airport or airport facility, provided adequate compensation is made for such use. The department may also make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over or under any airport or airport facility. Whenever the department shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be, located in, on, along, over or under any such airport or airport facility should be relocated, or should be removed from such airport or airport facility, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the department; however, the cost and expenses of such relocation or removal including the cost of installing such facilities in a new location or new locations and the cost of any lands, or any rights or interest in lands, and any other rights, acquired to accomplish such relocations or removal, shall be ascertained and paid by the department as a part of the cost of such

airport or airport facility, excepting, however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares being constructed, reconstructed or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.349.

IC 8-21-9-19

Maintenance, policing, and operation of airport facilities

Sec. 19. Each airport or airport facility or airport facilities when constructed and opened to traffic shall be maintained and kept in good condition and repair by the department. Each such airport facility or airport facilities shall also be policed and operated by such force of police, toll-takers and other operating employees as the department may, in its discretion, employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under this chapter.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.350.

IC 8-21-9-20

Restricted zones in airports; air pollution restrictions

Sec. 20. In order to provide free air space for the safe descent, landing and ascent of aircraft and for the proper and safe use of any airport or landing field acquired or maintained under this chapter, the department is hereby given the right, powers and authority to establish and fix by ordinance or ordinances a restricted zone or zones for such distance in any direction from the boundaries of such airport or landing field, within which zone or zones so established, as in the opinion of the department is necessary and practicable, no building or other structure shall be erected high enough to interfere with the descent of an aircraft at such approach angle as may be deemed reasonably necessary for the safety for the type of operation that is, or is anticipated to be, conducted at such landing field; however, the department may by ordinance, establish standards regulating, within said zone or zones, the emission of air pollutants such as, but not limited to, smoke, dust, noxious fumes, glare and electrical radiation which would compromise the safety of aircraft by interfering with visibility, operation of electrical equipment or any other condition necessary for safe flight.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980,

P.L.74, SEC.351.

IC 8-21-9-21

Airport fund

Sec. 21. A special and distinct revolving fund is hereby created, to be known as the "Airport Fund." Expenditures from the fund shall be made only for the acquisition of land including lands under water and riparian rights, or options for the purchase of such land for an airport or airport facility site, and incidental expenses incurred in connection with such acquisition, for the preparation of plans and specifications for any part or all of the airport or airport facility, for studies in connection with the airport or airport facility, and for administrative expenses of the department. The fund shall be held in the name of the department, shall be administered by the department, and all expenditures therefrom shall be made by the department, subject, however, to the approval by the governor, the state budget agency, and the state budget committee of all expenditures of moneys advanced to the fund by the State of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget agency, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action.

Upon the sale of airport revenue bonds for any airport facility or airport facilities, the funds expended from the "Airport Fund" in connection with the development of such airport facility or airport facilities and any obligation or expense incurred by the department for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such project shall be reimbursed to the "Airport Fund" from the proceeds of such bonds.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.352.

IC 8-21-9-22

Revenue bonds

Sec. 22. Airport revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized under this chapter, unless such bonds are refunded by refunding bonds, issued under this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Indiana, or of any political subdivision thereof, but are payable solely from revenues

pledged for their payment. All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter, and nothing in this chapter contained shall be construed to authorize the department to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.353.

IC 8-21-9-23

Issuance of revenue bonds

Sec. 23. (a) The department may, subject to IC 8-9.5-5-8(6), provide for the issuance of airport revenue bonds of the state for the purpose of paying all or any part of the cost of an airport facility or airport facilities. The principal of and the interest on the bonds shall be payable solely from the revenues specifically pledged to the payment as authorized by section 27 of this chapter.

(b) The bonds of each issue shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times not exceeding fifty (50) years from the date thereof, all as may be determined by the department, and may be made redeemable before maturity, at the option of the department, at a price or prices and under terms and conditions as may be fixed by the commissioner in an executive order providing for the issue.

(c) The department shall determine the form of the bonds, including attached interest coupons, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the department by the commissioner and the official seal of the department shall be affixed thereto. Any coupons attached thereto shall bear the facsimile signature of the commissioner of the department. If the commissioner whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be the commissioner before the delivery of such bonds, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes as if the commissioner had remained in office until delivery.

(d) All bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the law of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the department may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with the provisions of IC 4-1-5.

(g) The department may issue bonds in connection with a self-liquidating airport facility or airport facilities without regard to maximum interest rate limitation in this chapter or any other law and

sell the bonds either at public or private sale as the department may determine. The provisions of IC 4-1-5 shall not be applicable to such sale.

(h) "Self-liquidating airport facility or airport facilities" means an airport facility or airport facilities for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of the bonds to be issued to finance the cost of the airport facility or airport facilities and providing for the payment of the lessee or lessees of all costs of maintenance, repair and insurance of the airport facility or airport facilities.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.354; P.L.18-1990, SEC.159.

IC 8-21-9-24

Proceeds of revenue bonds; interim receipts or temporary bonds; placement of lost or destroyed bonds

Sec. 24. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the airport facility or airport facilities for which the bonds have been issued, and shall be disbursed in the manner and under the restrictions, if any, as may be provided in the resolution authorizing the issuance of the bonds or in a trust agreement securing the issue. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than the cost, additional bonds may in like manner be issued, subject to IC 8-9.5-5-8(6), to provide the amount of the deficit, and, unless otherwise provided in the commissioner's executive order authorizing the issuance of the bonds or in the trust agreement securing the issue, are deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the airport facility or airport facilities for which the bonds have been issued, the surplus shall be deposited to the credit of the sinking fund for the bonds. Prior to the preparation of definitive bonds, the department may, subject to IC 8-9.5-5-8(6), issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The department may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.355; P.L.18-1990, SEC.160.

IC 8-21-9-25

Refunding bonds

Sec. 25. The commissioner may, subject to IC 8-9.5-5-8(6), provide for the issuance of airport revenue refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which have been issued under this chapter, including the payment of any redemption premium thereon and any

interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the department, for the additional purpose of constructing improvements, extensions, or enlargements of the airport facility or airport facilities in connection with which the bonds to be refunded have been issued. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties, and obligations of the authority in respect of the same shall be governed by this chapter insofar as this chapter is applicable.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.356; P.L.18-1990, SEC.161.

IC 8-21-9-26

Trust agreement to secure bonds

Sec. 26. (a) In the discretion of the department, any bonds issued under the provisions of this chapter may be secured by a trust agreement between the department and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state.

(b) An executive order issued by the commissioner providing for the issuance of bonds for any airport facility or airport facilities, and any trust agreement pursuant to which such bonds are issued, may pledge or assign:

(1) all or any portion of the revenues received or to be received by the department from an airport facility or airport facilities except the part as may be necessary to pay the cost of the operation, maintenance, and repair of the airport facility or airport facilities to the extent airport facility or airport facilities and to provide reserves therefor and depreciation reserves if and to the extent required by any bond resolution adopted or trust agreement executed by the department; and

(2) the net revenues of the department from other airport facilities to the extent the net revenues are not otherwise pledged or assigned.

The department shall not convey or mortgage any airport, airport facility or any part thereof.

(c) In authorizing the issuance of bonds for any particular airport facility or airport facilities undertaken in connection with the development of an airport, the department may limit the amount of bonds that may be issued as a first lien and charge against the revenues pledged to the payment of the bonds. The department may authorize the issuance from time to time of additional bonds secured by the same lien to provide funds for the completion of the airport facility or airport facilities on account of which the original bonds were issued, or to provide funds to pay the cost of additional airport facilities undertaken in connection with the development of the airport, or for both purposes. The additional bonds shall be issued on terms and conditions as provided in the resolution authorizing the issuance of the bonds or in the trust agreement or a supplemental agreement and may be secured equally and ratably without

preference, priority, or distinction with the original issue of bonds or may be made junior.

(d) Any pledge or assignment made by the department is valid and binding from the time that the pledge or assignment is made, and the revenues pledged and received by the department shall immediately be subject to the lien of the pledge or assignment without physical delivery or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the department whether or not the parties have notice.

(e) Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the department. A trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the department in relation to the acquisition of property and the construction, improvements, maintenance, repair, operation, and insurance of the airport facility or airport facilities in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals, or other charges to be collected for the use of the airport facility or airport facilities, and the custody, safeguarding, and application of all money and provisions for the employment of consulting engineers in connection with the construction or operation of such airport facility or airport facilities.

(f) It is lawful for any bank or trust company incorporated under the laws of the state that may act as depository of the proceeds of bonds or other funds of the department to furnish indemnifying bonds or to pledge securities as required by the department. A trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition, a trust agreement may contain other provisions as the department may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of a trust agreement may be treated as a part of the cost of the operation of the airport facility or airport facilities.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.357; P.L.18-1990, SEC.162.

IC 8-21-9-27

Rights of bondholders

Sec. 27. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of

the state or granted hereunder or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the department or by any officer thereof, including the fixing, charging and collecting of fees, tolls, rentals or other charges for the use of the airport or airport facility or airport facilities.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.358.

IC 8-21-9-28

Revenue bonds to constitute legal investments for various institutions and fiduciaries

Sec. 28. Revenue bonds issued by the department under the provisions of this chapter shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, mortgage guaranty companies, small loan companies and industrial loan and investment companies, and any other financial institutions organized under the laws of the state of Indiana. Such bonds are hereby made securities in which all public officers and public agencies of the state and its political subdivisions may legally and properly invest funds and such bonds may be properly and legally deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.359; P.L.42-1993, SEC.9.

IC 8-21-9-29

Fixing and collecting fees, tolls, rentals, and other charges

Sec. 29. The department may fix, review, revise, charge and collect fees, tolls, rentals and other charges for the use of the airport, airport facility, airport facilities and lands under the jurisdiction or control of the authority or services rendered by the department, and contract with any person, partnership, association, limited liability company, or corporation desiring the use of any airport facility or airport facilities and appurtenances for any proper purpose, and fix the terms, conditions, rentals, and rates of charges for such use. Such fees, tolls, rentals and other charges shall be reasonably related to the cost of operation, maintenance and repair of the particular airport facility or airport facilities for which the fees, tolls, rentals and other charges are fixed, including a proper allocation of the administrative expenses of the department and in case revenue bonds are issued to finance such airport facility or airport facilities, the fees, tolls, rentals and other charges relating to that airport facility or airport facilities shall be established in an amount sufficient to pay the interest on and

principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau or agency of the state. After such bonds have been duly paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of such airport or airports shall be paid into a sinking fund to be created by the department and used only for the purpose of improving and maintaining airport facilities under the jurisdiction of the department. *(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.360; P.L.8-1993, SEC.149.*

IC 8-21-9-30

Deposit of funds

Sec. 30. All money received from any facility, pursuant to the authority of this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise, shall be held and accounted for by the department separate and apart from any other money of the department and shall be deemed to be trust funds to be held and applied solely and exclusively for the benefit of that facility as provided in this chapter, but prior to the time when needed for use by that facility may be invested by the department to the extent and in the manner provided by IC 5-13, insofar as applicable. Such funds shall be kept in depositories designated as depositories for funds of the state as selected by the department, in the manner provided by the governing statutes insofar as applicable. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which money shall be entrusted, shall act as trustees of such money and shall hold and apply the same for the purposes of this chapter, subject to the provisions of this chapter and of the authorizing resolution or trust agreement.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.361; P.L.19-1987, SEC.25; P.L.3-1990, SEC.33.

IC 8-21-9-31

Tax exemptions; tax assessments

Sec. 31. (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of an airport facility or airport facilities by the department will constitute the performance of essential governmental functions, the department shall not be required to pay any taxes or assessments upon any airport facility or airport facilities or any property acquired or used by the department under the provisions of

this chapter, or upon the income therefrom, and the bonds issued under the provisions of this chapter, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All properties both real and personal owned and operated by the department or leased by the department for proprietary purposes shall be assessed and added to the local tax rolls as any other private property. Such proprietary operations, under control of either the authority or a lessee of the department, shall be subject to Indiana adjusted gross income and sales tax laws.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.362; P.L.21-1990, SEC.41; P.L.254-1997(ss), SEC.15; P.L.192-2002(ss), SEC.145.

IC 8-21-9-32

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-33

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-34

Regional plan commissions; membership; powers and duties

Sec. 34. (a) In the event that there is in existence or is later created a regional plan commission having jurisdiction over any portion of the airport site purchased or otherwise controlled by the department:

(1) a representative appointed by the commissioner of the department shall become a voting member of the regional plan commission with all rights and privileges of regular membership, except that the department member shall be permitted to claim no compensation or reimbursement for personal expenses or per diem from the regional plan commission; and

(2) upon appointment of a department representative to the regional plan commission, all requests or proposals for zoning amendments, subdivision plats, conditional use permits, exceptions, or variances from any zoning ordinance as well as for the development of public facilities including requests and proposals for airports, parks, thoroughfares, hospitals, and schools within the zone or zones provided for in section 21 of this chapter shall be forwarded to the regional plan commission by the appropriate public body for review and comment.

(b) The regional plan commission shall review proposals described in subsection (a)(2) and give consideration to aircraft

safety, public safety, and regional plans relating to the aircraft vicinity. If the regional plan commission does not return its comments to the appropriate public body within thirty (30) days, the public body may proceed on the basis that the regional plan commission concurs with the proposals. Comment made by the regional plan commission shall be considered to be of an advisory nature only.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.363; P.L.3-1989, SEC.70; P.L.18-1990, SEC.163.

IC 8-21-9-35

Conflicts of interest; void contracts; offense

Sec. 35. A member, agent, or employee of the department who knowingly is interested in any contract with the department or in the sale of any property, either real or personal, to the department commits a Class A misdemeanor. All such contracts are void. This section does not apply to contracts for purchases of property, real or personal, between the department and other departments, municipalities, or subdivisions of state government.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1978, P.L.2, SEC.865; Acts 1980, P.L.74, SEC.364.

IC 8-21-9-36

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-37

Powers and duties of department; application to chapter

Sec. 37. The powers, duties, and functions of the department under IC 8-21-1 shall not apply to the operation of any airport created under the authority of this chapter. However, statewide regulatory powers of the department shall appertain thereto in aviation communications, air safety, or enforcement of IC 8-21-10, the high structure safety law.

(Formerly: Acts 1971, P.L.105, SEC.2; Acts 1973, P.L.73, SEC.2.) As amended by Acts 1980, P.L.74, SEC.365; P.L.3-1990, SEC.34.